# 11/6/78

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FORM OF DOCUMENT	CORRESPONDENTS: O'R TITLE	DATE	RESTRICTION
Memo	Kraft & Gammill to Pres. Carter, w/attachmen 15 pp., re:Recommendations	11/1/78	C
<b>₩emo</b> ~	Pres. Carter to Eizenstat & Moore, w/attachm 3 pp., re:HR 9518 & 13719 Open 10/17/96	11/2/78	A
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Carter Presidential Papers-Staff Offices, Office of Staff Sec.-Presidential Handwriting File 11/6/78 Box 108

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rick/bill/patti

70 PM + 5E

THE WHITE HOUSE

WASHINGTON

Cost der hat

11.2-78

To Stu Frank

So far , I have Serious reservations about 1/R 9518 HR 13719

J.C.

THE WHITE HOUSE

WASHINGTON

Confidential

11-2-78

To She
Track

So for I have Serious

reservations about

HR 9518

HR 13719

J.C.

# Electrostatic Copy Made for Preservation Purposes

LAST DAY - Monday, Nov 6

THE WHITE HOUSE

WASHINGTON

November 3, 1978

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MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

SUBJECT:

Enrolled Bill S. 1816 - Native Latex

Commercialization and Economic Development

Act of 1978

# THE BILL

Authorizes the Secretaries of Agriculture and Commerce to undertake a joint research and development program designed to promote the commercialization of natural rubber made from the guayule plant, a shrub native to Texas and Mexico.

Natural rubber from the guayule has been previously produced but current processes are uneconomic compared to imported rubber from Southeast Asia and synthetic petroleum-based rubbers. The bill would establish a Commission composed of representatives from Agriculture, Commerce, the Bureau of Indian Affairs, and the National Science Foundation. The Commission would plan a research and development program and the Secretaries of Agriculture and Commerce would be authorized to spend up to \$30 million over four years for grants, research, patent acquisition and other purposes. Indian tribes would be eligible for these grants.

In addition the bill waives marketing quota penalities on 144 small tobacco farmers from Virginia, North Carolina and Tennessee. These farmers marketed 160,000 pounds of what they believed to be Maryland Type 32 tobacco, a variety that would have been exempt from quotas. The tobacco was later classified by USDA as burley tobacco which is subject to quotas. This classification made the tobacco excess above allotments and thus exposed the producers to \$136,000 in penalties. These penalties were upheld in court. However, the farmers apparently did act in good faith in planting tobacco which they believed to be Maryland Type 32, and would be financially devastated if forced to pay.

# THE VOTES IN CONGRESS

House - Voice

Senate - Voice

## ARGUMENTS FOR SIGNING

If the guayule program is successful it could help to limit our dependence on foreign rubber and foreign oil. It could also help to develop arid regions of the Southwest, especially certain Indian reservations.

## ARGUMENTS FOR VETO

It is not clear why the federal government should so substantially raise its commitment to guayule commercialization prior to a clear demonstration of the feasibility of such a project. Pilot efforts sponsored by the Four Corners and Southwest Border Regional Commissions are still underway.

# AGENCY AND STAFF RECOMMENDATIONS

Although we opposed this program in testimony, all agencies, including OMB, Agriculture and Commerce recommend signature of this bill or have no objection. No senior staff member recommends veto. Frank and I recommend that you sign this bill.

DECISION			
*	Sign	s.	1816
	Veto	s.	1816

THE WHITE HOUSE

WASHINGTON

October 31, 1978

advisors who will say what They acheally befreve

MEMORANDUM FOR THE PRESIDENT

FROM:

STU EIZENSTAT

SUBJECT:

Enrolled Bill H.R. 12874 -- Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978

# THE BILL

H.R. 12874 establishes a ten-year program for federal research, development and demonstration of solar photovoltaic energy technology. Photovoltaic solar technology involves the direct production of electricity from sunlight. These systems are well enough developed to have been used in the space program, but their costs are still too high to compete with conventional energy systems.

The bill sets forth a series of goals and federal policies which are aimed toward producing cost-competitive electricity from photovoltaic systems in ten years. It requires the Secretary of Energy to undertake programs designed to meet the following goals by 1988:

- double the use of solar photovoltaic systems each year for the next ten years;
- reduce the cost of installed photovoltaic systems to \$1 per peak watt -- the current cost is \$20 -\$25 per peak watt;
- assure that at least 90% of all photovoltaic systems produced in the U.S. are bought by private (non-governmental) buyers.

To reach these goals, H.R. 12874 provides that:

- DOE may fund demonstration projects in both the public and private sectors;
- DOE may make contracts or other agreements to provide up to 75% of the costs of such projects;

- DOE may perform a variety of monitoring, information gathering, and interagency cooperation and coordination functions;
- a Solar Photovoltaic Energy Advisory Committee is to be established with representatives from industry, academia, professional organizations, and the general public.

FY 1979 authorizations of \$125 million are contained in the enrolled bill. Expenditures of about \$1.5 billion are estimated to be required over the ten year life of the program. (The Public Works Appropriation bill contained \$119 million in funds for photovoltaics).

During Congressional consideration of H.R. 12874, the Administration expresses a number of concerns about the ambitious nature of the program contained in the bill. The major concerns were:

- the goals set forth in the bill may not be attainable and may restrict the Department of Energy's flexibility in managing this program effectively;
- large purchases of photovoltaic systems at this stage in the development of production methodology may tend to "freeze" the technology before it is sufficiently mature and would hinder further R & D (as opposed to commercialization) work which is needed to achieve the cost reductions necessary to making this technology competitive with other methods of generating electricity;
- the existing photovoltaic R & D program is adequate to meet federal responsibilities for moving this technology forward.

In response to these concerns, the Senate modified the Housepassed bill somewhat, and several floor colloquies as well as the Senate Committee Report on the bill have further clarified Congressional intent in a manner more consistent with the Administration's views. In particular, it has been made clear that:

> • The Secretary of Energy may propose changes to the goals established in the bill if he finds that they are unattainable or have adverse consequences on the longer-term development of the technology.

- The focus of the program in the early years should be on research and development, not premature commercialization.
- The \$125 million authorized in this bill is the comprehensive authority for all federal photovoltaics work -- not an add-on to other authorizations (such as a \$98 million authorization contained in the National Energy Act).

While not all of the Administration's concerns have been met in full (we would prefer more statutory flexibility), the Senate changes and the clarifications of Congressional intent meet the most significant of our concerns. It should be noted, however, that no Conference Committee report was issued on the bill and therefore the clarifications mentioned above have not been definitively made in a joint House-Senate statement. For that reason, if you sign the bill, a statement reiterating the most important aspects of the floor colloquies and Report language is recommended.

# VOTES IN CONGRESS

House 385 - 14

Senate Voice Vote

# ARGUMENTS FOR SIGNING

- The bill has been either amended or Congressional intent clarified to meet the most significant of the Administration's reservations about it.

  Particularly with a signing statement, the Secretary of Energy should have enough flexibility to manage the program effectively.
- It provides a clear statement of federal support for the development of a competitive photovoltaics technology which the industry has argued is needed to spur further private investment in the development of this technology.
- Indirectly, the bill has become a symbol of the government's overall support for solar and other renewable energy sources. The bill was overwhelmingly supported in the Congress, and by solar advocates. A veto would be taken as a significant rejection of solar technologies in general.

• Problems associated with overlapping photovoltaic authorizations have been satisfactorily resolved, and no out-year authorizations are made by the bill. Funding levels must be determined through the regular authorization/appropriation process. The FY 1979 appropriation is close to the level authorized by the bill and no strong pressures for a FY 1979 supplemental are expected.

# ARGUMENTS FOR VETO

- The new authorizations contained in the bill are not needed to carry out a sound photovoltaics R&D program.
- Although the Secretary of Energy may recommend changes in the goals established by the bill, affirmative Congressional action would be required to change them to conform to the Secretary's recommendations. This could prove to be difficult (although taken in the context of a solid solar initiative which we hope the Solar Domestic Policy Review will produce, we should be able to work reasonably well with the Congress). Still, we would have preferred a bill with greater programmatic flexibility.

### AGENCY AND STAFF RECOMMENDATIONS

OMB, the Departments of Energy and Commerce, and the Council on Environmental Quality recommend approval. Other commenting agencies have no objections to approval. The Office of Science and Technology Policy cites certain concerns with the bill, but states that "in light of the political overtones of a veto -- the President might be seen as opposing solar energy -- we cannot recommend one." Other senior staff have raised no objections, and Frank Moore and I recommend approval.

We, OMB, OSTP, and DOE recommend that a signing statement be issued with the bill in order to reinforce Congressional statements that provide the Secretary of Energy with the flexibility needed to suggest alteration of the goals and to focus on research and development in the early years. A draft statement, which has been reviewed and concurred in by all affected agencies and staff, is attached.

DECISION	
	Approve H.R. 12874
	Issue Signing Statement
	Do Not Issue Signing Statement
	Disapprove H.R. 12874

(2 SIGNATURES REQUESTED)

# Electrostatic Copy Made for Preservation Purposes

LAST DAY FOR ACTION Monday, November 6, 1978

THE WHITE HOUSE

WASHINGTON

October 31, 1978

De Cautions in

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

AL STERN

SUBJECT:

Enrolled Resolution S.J. Res. 160 -

Pension Building

## THE BILL

Enrolled Resolution S.J. Res. 160 calls for preliminary studies for restoring and renovating the Pension Building in Washington, D.C. to house a national Museum of the Building Arts (including architecture, engineering, construction, urban design, and historic preservation). The Pension Building is now under the jurisdiction of GSA and has been accorded landmark status on the National Register of Historic Places. It is located at Fifth and G Streets, N.W.

However, the bill includes no authorization of appropriation for the studies and calls for submission of these studies to certain Congressional Committees by November 1, 1978.

# ARGUMENTS FOR APPROVAL

The Pension Building is a remarkable structure and should be converted to some significant public use. The building arts do not have adequate representation among the museums presently in Washington, D.C.

### ARGUMENTS FOR DISAPPROVAL

There are several worthy suggestions for using the Pension Building and comparative judgments of the best use have not been made. The original estimate of the costs of such a museum would be \$12 million per annum. The date of submission of estimates and plans to Congress is completely unrealistic.

# VOTES IN CONGRESS

The resolution passed both Houses of Congress by voice vote.

# AGENCY AND STAFF RECOMMENDATIONS

OMB, Smithsonian Institution, National Endowment for the Arts, and the District of Columbia recommend approval. GSA has no objection. All responding Senior Staff either recommend approval or have no objection. We recommend that you sign the bill. Unrealistic timetables can be worked out with Congress.

# **DECISION**

Sign	S.J.	Res.	160	(recommended)
Veto	S.J.	Res.	160	

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THE WHITE HOUSE

WASHINGTON

November 1, 1978

a) Did you check Thereld?

Therefore my?

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

Enrolled Bill H.R. 13903

he statement

SUBJECT:

Duncan's statement regarding legislative intent is not at variance with the signing statement.

Duncan's colloquy pertained to ordinary appointments which require confirmation. A recess appointment does not require confirmation. However, I have spoken with the Department of Justice, which originally recommended the signing statement, and the Department feels that a statement is not needed.

suse me THE WHITE HOUSE

WASHINGTON

November 1, 1978

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MEMORANDUM FOR THE PRESIDENT

FROM:

STU EIZENSTAT

JOE ONEK

SUBJECT:

Enrolled Bill H.R. 13903 - Board of

Regents of the Uniformed Services

University of the Health Sciences

ps Why do we

# THE BILL

H.R. 13903 provides that any member of the Board of Regents of the Uniformed Services University of the Health Sciences, whose term has expired, shall continue to serve until a successor has been appointed.

# VOTES IN CONGRESS

House - Voice Vote

Senate - Voice Vote

# DISCUSSION

Secretary Brown suggested that the bill is an attempt, unconstitutionally, to limit your power to remove executive officials. However, the Department of Justice, Bob Lipshutz and OMB agree that there is no constitutional objection to the bill. The Department of Justice and Lipshutz do recommend that you make a brief signing statement (attached), setting forth your understanding that the bill does not limit your power to make recess appointments.

## AGENCY AND STAFF RECOMMENDATIONS

All agencies other than Defense have no objection to the bill. Frank, Bob and I agree that you should sign.

#### DECISION

 Sign	H.R.	1.3903,	with	statement	(recommended)	•
Veto	H.R.	13903				

(2 SIGNATURES REQUESTED)



# THE SECRETARY OF DEFENSE

OCT 20 YEA

# "MEMORANDUM FOR THE PRESIDENT

The Congress in its waning hours sent to you for signature

H.R. 13903, which provides that a member of the Board of Regents

of the Uniformed Services University of the Health Sciences whose

iterm of office has expired shall continue to serve until a successor

is appointed. (Hembers of the Board are nominated by you and with

the advice and consent of the Senate serve for six-year terms.)

Although the bill itself is not of great moment, it appears on the face to be an attempt unconstitutionally to limit your power to remove executive officials. Under H.R. 13903, the Senate could refuse to approve a Presidential nominee because it preferred a Board member whose term had expired, thus keeping the latter in office indefinitely. In a colleguy during Charles Duncan's appearance before the House Armed Services Committee on this subject, it became clear that the Committee means by "appointed," not earely nominated but confirmed and sworm in.

Of course, the Board being an agency in the Executive Branch, you probably would have power to dismiss a member in any event. You "may, however, prefer not to appear to assent to a restriction on your removal authority that the Congress has no power to adopt. For that reason, and since the bill contains no useful provisions, I recommend you disapprove it.

Howeld Brown

this

# THE WHITE HOUSE WASHINGTON 11/2/78

Tim Kraft Arnie Miller

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

# THE WHITE HOUSE WASHINGTON

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Tell Harold to move
This year on are
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appropriate Casamento.
For Anthony Casamento.
Heep me informed

Last Day - Nov. 4, 1978

THE WHITE HOUSE

ACTION

WASHINGTON

October 26, 1978

MEMORANDUM FOR

THE PRESTDENT

FROM

STU EIZENSTAT KATHY FLETCHER

SUBJECT:

have doubts
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have doubts
about this
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Assess for me Enrolled Bill H. R. 14224 --Acquisition of Land for the Minnesota Chippewa Indians

THE BILL

This bill authorizes the Secretary of Interior to acquire and hold in trust approximately 25 acres for the Mille Lacs Band of the Minnesota Chippewa Indians. The subject land is an Indian burial ground which has been in disputed ownership. Although Interior has not yet appraised the land, its estimated value is \$118,000.

# VOTES IN CONGRESS

Voice vote in both Houses.

### ARGUMENTS FOR SIGNING

- The bill will settle a land ownership dispute which might otherwise be prolonged in litigation.
- The Mille Lacs Indians seek the return of this burial ground to tribal ownership.

# ARGUMENTS FOR VETO

None

# AGENCY AND STAFF RECOMMENDATIONS

OMB and Interior recommend approval and Justice defers to Interior. Senior staff have raised no objection and I recommend approval.

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#### THE WHITE HOUSE

WASHINGTON

November 1, 1978

Let foley announce

MEMORANDUM FOR THE PRESIDENT

FROM:

STU EIZENSTAT

KATHY FLETCHER

SUBJECT:

Enrolled Bill S. 2820 - Reclamation

Safety of Dams Act of 1978

Sponsor - Sen. Jackson (D) Washington

You must decide by Monday, November 6 whether to sign or veto this bill.

## THE BILL

This bill authorizes the Secretary of Interior to make safety repairs to Bureau of Reclamation dams and lessens the repayment obligations which must be borne by project beneficiaries for reclamation dam safety repairs. It also contains certain non-germane provisions, including a waiver of a mandatory waiting period to approve contracts for reclamation water delivery to the Westlands water district in California, and an extension of the moratorium against studies of interbasin transfer of water from the Columbia River basin. The bill authorizes \$100 million to be expended as repairs are made.

The Administration sought the dam safety repair authority but opposed the repayment provisions in the bill. However, we intend to include remedial legislation as part of the comprehensive cost-sharing legislation we will propose to the next Congress. The Administration supports the waiver of the waiting period for the Westlands contracts which are mutually acceptable to the district and to the Interior Department. Other objectionable provisions include reimbursement of safety expenditures already made by certain project beneficiaries.

### VOTES IN CONGRESS

House: Voice vote

Senate: 77-1

# THE WHITE HOUSE WASHINGTON 11/2/78

# Frank Moore

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

FOR STAFFING
 FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
LAST DAY FOR ACTION -



# ACTION

	ADMIN CONFID
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	EYES ONLY

			VICE PRESIDENT
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			JORDAN
	***		KRAFT
			LIPSHUTZ
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	- 4		BRZEZINSKI
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			SCHULTZE

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STRAUSS
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### THE WHITE HOUSE

WASHINGTON

October 30, 1978

Can't Later now ok

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE F. M. / 3K

SUBJECT:

SEN. KANEASTER HODGES (D-ARK)

Senator Hodges is still in Washington with very little to do. As you know there are only a few people in the Senate who will take the Senate floor and work hard for or against something--Hollings, Kennedy (on 1 or 2 issues a year), Long and Hodges. Except for the farm bill, Senator Hodges worked for us very hard on all of our major issues.

A number of times he has mentioned his desire to play tennis on the White House courts before his return to Arkansas. He is reportedly a good singles and doubles player and would be delightful company. He would be available for a spur-of-the-moment game. If you would keep him in mind, I would appreciate it.

# THE WHITE HOUSE WASHINGTON

11/2/78

Ed Sanders

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Zbig Brzezinski

1	FOR STAFFING
-	FOR INFORMATION
Γ	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION -

CC Sanders

Z13 + Phil

already know

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

	VICE PRESIDENT
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# THE WHITE HOUSE

WASHINGTON

November 1, 1978

1

MEMORANDUM FOR THE PRESIDENT

FROM:

ED SANDERS

SUBJECT:

Recent Los Angeles, New York and

Washington, D.C. Meetings

During the last week I have personally met with leaders in the Jewish community in Eos Angeles (October 27th), New York (October 30th), and Washington, D.C. (November 1). I came away with the following conclusions which I thought I should pass on to you:

- (a) There is a growing concern that our policy contemplates unjustified pressure on Israel to give up the existing West Bank settlements and its claims to Jerusalem.
- (b) There is a growing perception that there is a decided coolness between our government and the Israelis. This feeling has been magnified in the last few days not only by the dispute between us over the "thickening" of settlements, but also by the fact that you will not be meeting with Prime Minister Begin in New York.

Crows.

I recommend that you consider some contact with Prime Minister Begin, perhaps a telephone call, which can then be made known to the press.

I also recommend that we take steps to make it clear that compromise is necessary by both sides and that such compromise will be the result of negotiations between the parties.

I also feel that it would be extremely helpful to you during your trip to New York, and helpful to me in my continuing contact with the community, if I could spend a few minutes with you before you leave on Thursday, November 2. I would be able to expand on my recent experiences. Of course, I am available to join you if you deem it to be appropriate.

ES: mad

# THE WHITE HOUSE WASHINGTON

11/6/78

Mr. President:

Jerry Rafshoon would like to talk with you this morning about a different approach for your FFA speech than the draft you have. He is in his office.

Phi1

Mil annex - progress (III)

Will meet = oil minister

Will meet = oil minister

Sef mtg = " today

Ly: " Treaty Completed" > 8/29

Frank - Howard/Handolph - Surface

Xport

# THE WHITE HOUSE WASHINGTON

11/2/78

Stu Eizenstat Bob Lipshutz

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

We will hold the Executive Order until we hear back from you.

Rick Hutcheson

#### THE WHITE HOUSE

WASHINGTON

November 1, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

BOB LIPSHUTZ

STU EIZENSTAT

RE:

Proposed Executive Order Entitled: "Creating an Emergency Board to

Investigate a Dispute Between Wien

Air Alaska, Inc. and Certain Individuals"

One provision of the Airline Deregulation Act requires the President to create an Emergency Board to investigate a labor dispute between Wien Air Alaska and the Airline Pilots Association. The Board must be created within ten days of enactment (i.e., by November 3).

The attached Order carries out the statutory requirement, which is mandatory. (You should be aware, however, that the National Mediation Board did not recommend creation of an Emergency Board since the dispute does not threaten a substantial interruption of interstate commerce.)

We recommend that you sign the attached Order.

Approve	Disapprove

only if regurned by law

# EXECUTIVE ORDER

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN WIEN AIR ALASKA, INC. AND CERTAIN INDIVIDUALS

A dispute exists between Wien Air Alaska, Inc., and certain individuals represented by the Air Line Pilots Association, a labor organization.

Section 44 of the Airline Deregulation Act of 1978 (Public Law 95-504) directed that the provisions of Section 10 of the Railway Labor Act, as amended, be invoked despite the fact that the National Mediation Board has failed to find that the dispute in its judgment substantially threatens to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me by Section 44 of the Airline Deregulation Act of 1978 (Public Law 95-504) it is hereby ordered as follows:

1-101. Establishment of Board. There is established a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of airline employees or any carrier.

1-102. Report. The board shall report its findings to the President with respect to the dispute within 30 days from the date of this Order.

Immy Carter

THE WHITE HOUSE

, 1978

### THE CHAIRMAN OF THE COUNCIL OF ECONOMIC ADVISERS WASHINGTON

November 2, 1978

MEMORANDUM FOR THE PRESIDENT

From:

Charlie Schultze 215 497

Subject:

Producers Prices in October

The index of producer (wholesale) prices for October was released by the Bureau of Labor Statistics at 9:00 this The news continues to be most disappointing. morning.

The index for all finished goods rose 0.9 percent in October (a 10.8 percent annual rate). The consumer foods component of the total was up 1.7 percent; nonfood finished goods were up 0.6 percent. These are the same percentage increases as in September.

The rise in the index for nonfood goods would have risen more than 0.6 in October, however, except for a decline in seasonally adjusted new car prices. (Prices of 1979 models rose less than they usually do in October because auto manufacturers spread their planned increases over the spring and summer months.)

The rise in consumers finished food prices at wholesale last month will mean increases at the grocery store in months to come. Fresh fruit and vegetable prices at wholesale were up 6-1/2 percent in October; meat prices rose 3.9 percent. Prices of livestock and grain also rose at the farm level.

Besides covering finished goods, the producers price statistics also cover prices of intermediate and crude goods. These prices rose considerably faster in October than in September.

There is no way of putting these statistics in a favorable light. There is some possibility that part of the recent price increases reflects an effort to put higher prices in place before the announcement of the new anti-inflation program. We have no way of knowing for sure.

# THE WHITE HOUSE WASHINGTON

11/2/78

Jack Watson Stu Eizenstat Frank Moore Anne Wexler

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

ADMINISTRATIVELY CONFIDENTIAL

Electrostatic Copy Made for Preservation Purposes

THE WHITE HOUSE

WASHINGTON

November 1, 1978

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR THE PRESIDENT

FROM:

Jack Watson

Stu Eizenst

Frank Moore Anne Wexler

SUBJECT:

LORING AIR FORCE BASE, MAINE

As we get into the final days of the election in Maine, it has become increasingly clear that the status of Loring Air Force Base could play a crucial part in the outcome. We are convinced that a decision on Loring could, in fact, mean the difference in Bill Hathaway's election. Whether Senator Hathaway is re-elected will greatly affect some vital Carter initiatives in the next Congress, such as SALT II and your new wage insurance program (Hathaway is ranking on the Finance Committee), to name only two among many major issues on which Hathaway would be a key supporter. Either one of those votes is considerably more important than the approximate annual savings of \$24-million which a Loring reduction-in-force would produce.

We are all acutely aware of your desire not to inject politics into the base closing process. We all agree with your position and have supported it vigorously. However, we urge you to consider the following:

(1) DoD's own Environmental Impact Statement (EIS) stated that on a "worst case" basis, the present unemployment rate of 11.8% in that area of Maine would increase to 22%. An Air Force analyst recently concluded that the "worst" case would not happen, and that a more likely result would be an increase to 16.8-18.8% for two years or so, still a significant economic impact using the Air Force's own figures.

The defense full defense make make announcement announcement announcement announcement for election.

- (2) It is generally agreed that the immediate and direct removal of nearly 3,500 people from the base would have a severe and long-term impact upon the area's economy.
- (3) It is also agreed that by anyone's measurement Loring's closure would be a serious blow to Maine's economic base in that area, although it is not clear how long that situation would persist.
- (4) The Loring economic impact situation is unique because of the base's location in the state and because Air Force studies show that there is no reasonable prospect for rapid economic recovery in the area.

# RECOMMENDATION

We recommend that you instruct Harold Brown <u>not</u> to proceed with the proposed 70% reduction of Loring because of the severe economic impact such a reduction would have on that area of Maine, including an unemployment rate of between 16% and 22%.

If you agree with this recommendation, we must move <a href="immediately">immediately</a>. The announcement of the decision should be <a href="made">made</a> by the Defense Department as soon as possible.

# THE WHITE HOUSE WASHINGTON

11/2/78

Frank Moore

The attached was returned in the President's outbox. It is forwarded to you for your information.

Rick Hutcheson

1	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION -

ACTION FYI

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

		VICE PRESIDENT
	:,	EIZENSTAT
·		JORDAN
		KRAFT
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		WEXLER
	ľ	BRZEZINSKI
		MCINTYRE
		SCHULTZE

ADAMS
ANDRUS
BELL
BERGLAND
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VANCE

_1_	
	ARAGON
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	CLOUGH
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	HARDEN
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	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
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### THE WHITE HOUSE

WASHINGTON

November 1, 1978

done

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE JAM.

SUBJECT:

SENATOR HOWARD BAKER

Senator Baker called and said that he watched George Meany today on television and is convinced that your inflation program will not work with Meany rejecting out of hand your program. He agrees with you that it has to be voluntary, rather than mandatory, and it should be a bipartisan approach. He would like to help you with the program and to work out an accommodation with labor.

What he did not say is that he is in a little bit tougher race than he thought he was going to be in, and he would probably make your telephone conversation public in speeches tomorrow by saying he has offered to help the President in his fight against inflation. The Senator asks that you please call him tonight. I would lean against your returning his call immediately until we have an opportunity to analyze the political AS protocol effects. If you decide to call him tonight, you could partially protect yourself by merely listening and making no comment. However, Baker would still say "I called the President....'

Electrostatic Copy Made for Preservation Purposes

THE WHITE HOUSE

WASHINGTON

October 27, 1978

Bob-Type This as edited- See marginal note-TC.

MEMORANDUM FOR THE PRESIDENT

FROM:

BOB LIPSHUTZ

RE:

Standards and Guidelines for Selecting District

Judges Under the Omnibus Judgeship Act

The Omnibus Judgeship Act, which you signed on October 20, requires the President to issue "standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act." No district judges can be appointed until the standards and quidelines have been issued, although they can be waived by the President in particular cases.

Attached are two draft Executive Orders setting forth standards and quidelines. The first draft was prepared at Justice; the second is my proposed revision of Justice's draft (I recommended an earlier version of my draft to the Attorney General but he rejected it).

The Attorney General and I agree on the standards to be used in evaluating potential nominees (see Section 1-2 of the respective drafts). We differ, however, on three other issues.

#### The President's Authority and Responsibility. 1.

The principal difference between our approach and Justice's has to do with the public perception of the role of the President in the selection process.

The Justice draft focuses on the responsibility and authority of the Attorney General in the screening process (see Section 1-1). I agree that the Attorney General has an important role to play in judicial selection. But this should not be perceived as the decisive or dominant role. For three reasons particularly, I believe that the Executive Order should set forth the President's responsibility and authority (but should make it clear that the Attorney General will be assisting the President in this area):

a) Constitution. The Constitution gives the power to appoint judges to the President. The Order should not in any way be perceived as lessening this authority.

- b) Conflict of Interest. The Justice Department is by far the largest litigator in the Federal courts, and the propriety of Justice playing a decisive or dominant role in judicial selection has been questioned. Again, I agree that Justice should have an active role, but to avoid this type of valid criticism the precise nature of Justice's responsibility should not be stressed so formally.
- c) Politics. It is the President, not the Attorney General, who will be credited or blamed for the results of the process. The Order should show that the President accepts this responsibility and recognizes its importance.

I understand the Attorney General's legitimate concern that the entire White House not become involved in judicial selection. For that reason Hamilton, Frank and I have agreed that any and all contacts with Justice on this issue will be made through my office. I, in turn, will coordinate with Hamilton, Tim and Frank to make sure that all White House interests are considered.

### 2. Use of the Term "Well Qualified."

In Section 1-102 of his draft, the Attorney General proposes using the term "well qualified" to describe the type of individuals being sought for the bench. While the phrase seems innocuous, it is a term of art within the legal profession, since the ABA rates candidates as "exceptionally well qualified," "well qualified," "qualified," or "unqualified."

I do not believe the Attorney General is intending to adopt the ABA rating system. Because of the widespread use of this terminology, however, inclusion of the phrase "well qualified" could prove confusing.

It should be sufficient if candidates are qualified. Any greater standard--which is often measured simply on the basis of years of experience--could have an adverse effect on affirmative action. Moreover, we know of judges whom the ABA found only "qualified" but who went on to have exceptional judicial careers.

3. Congressional Consultation. Key Senators have not yet seen any draft of this Executive Order. Since the Order will affect their role in judicial selection, I believe that consultation is needed before the Order is signed. Frank Moore agrees. In particular, I would recommend that Frank and the Attorney General consult with Senator Kennedy, who will be the new Chairman of the Judiciary Committee.

Let findse handle

Decisio	ons:	· m	land h
1		Set forth Presidential we will responsibility and authority in Order (I recommend)	Emphasis on responsibility and authority of Attorney General (Attorney General recommends)
2	<u> </u>	Use term "qualified" rather than "well qualified" (I recommend)	Use "well quali- fied" (Attorney General recom- mends)
3	Lei	Sign Order following consultation with Senators (Frank and I recommend) with Senators  AG CARCA Tuesday  Will Sign	Sign now (Attorney General recom- mends)
		J	

### EXECUTIVE ORDER

Use this broth

STANDARDS AND GUIDELINES FOR THE MERIT SELECTION OF UNITED STATES DISTRICT JUDGES

By virtue of the authority vested in me as President by the Constitution and the statutes of the United States of America, including Section 7(a) of the Omnibus Judgeship Act of 1978, providing that the President shall promulgate and publish standards and guidelines for the selection of nominees for United States district court judgeships, it is hereby ordered as follows:

## 1-1. Nomination of District Judges.

1-101. Whenever a vacancy occurs in a district court of the United States, the President shall nominate as district judge to fill that vacancy a person whose character, experience, ability, and commitment to equal justice under law qualifies that person to serve in the federal judiciary.

1-102. The Attorney General shall assist the President in socking to identify persons qualified to be district judges and in evaluating potential nominoes. The Attorney General shall receive recommendations of such persons from any person, commission or organization.

1-103. The use of commissions to advise persons making recommendations for district judge is encouraged. The public The formal shall make publicly available suggested guidelines for such commissions.

1-104. After receiving and evaluating names of potential nominees for district judge, the Attorney General shall make recommendations to the President Before making any recommendations, the Attorney General shall assist the President in considering whether:

(a) Public notice of the vacancy has been given and that an affirmative effort has been made, in the case of

by recommending to the President persons to be longidered for appointment who are qualified to be district judges and me by walnuthing potential

each vacancy, to identify qualified candidates, including women and members of minority groups;

- (b) The selection process was fair and reasonable;
- (c) The person or persons recommended meet the standards for evaluation set forth in Section 1-2 of this Order.
- 1-105. In evaluating proposed nominees, consideration will be given to reports of Department of Justice investigations and all other relevant information concerning potential nominees and their qualifications.

## 1-2. Standards for Evaluating Proposed Nominees.

- 1-201. The standards to be used in determining whether a person is qualified to serve as a district judge are whether that person:
- (a) Is a citizen of the United States, is a member of a bar of a state, territory, possession or the District of Columbia, and is in good standing in every bar in which that person is a member;
- (b) Possesses, and has a reputation for, integrity, good character, and common sense;
- (c) Is, and has a reputation for being, fair, experienced, even-tempered and free of biases against any class of citizens or any religious or racial group;
  - (d) Is of sound physical and mental health;
- (e) Possesses and has demonstrated commitment to equal justice under law;
- (f) Possesses and has demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and their processes;
- (g) Has the ability and the willingness to manage complicated pretrial and trial proceedings, including the ability to weigh conflicting testimony and make factual

determinations, and to communicate skillfully with jurors and witnesses;

(h) Would help meet a perceived need of the district court in which the vacancy exists, including the need for certain professional background or legal expertise, or geographic distribution.

## 1-3. Amendments of Existing Orders.

1-301. Section 3(b) of Executive Order 12059 of May 11, 1978 is amended to read as follows:

- "(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia. In exercising this function, the panel shall use the standards set forth in Executive Order and shall forward its recommendations to the Attorney General.".
- 1-302. Executive Order 12084, of September 27, 1978 is amended in the following respects:
  - (1) Section 1-202(d) is amended to read as follows:
- "(d) report to the Attorney General, within the time specified in the notification, the results of its activities, including a list of persons whom the Commission considers to be best qualified to fill the vacancy.".
  - (2) Section 1-203 is amended to read as follows:
- "1-203. In evaluating potential nominees, the Commission shall use the standards prescribed in Executive Order .".

STANDARDS AND GUIDELINES FOR THE MERIT SELECTION OF UNITED STATES DISTRICT JUDGES

By virtue of the authority vested in me as President by the Constitution and the statutes of the United States of America, including Section 7(a) of the Omnibus Judgeship Act of 1978, providing that the President shall promulgate and publish standards and guidelines for the selection of nominees for United States district court judgeships, it is hereby ordered as follows:

## Recommendation for Nomination.

1-101. Whenever a vacancy occurs in a district court of the United States, the Attorney General shall recommend to the President for nomination as a district court judge to fill that vacancy one or more persons whose character, experience, ability and commitment to equal justice under law qualify them to serve in the federal judiciary.

- 1-102. The Attorney General shall seek to identify persons well qualified to be federal district court judges and shall receive recommendations of such persons from any person, commission or organization.
- The use of commissions to advise persons making 1-103. recommendations to the Attorney General is encouraged. Attorney General shall make available suggested guidelines for those commissions.
- 1-104. Before transmitting recommendations to the President, the Attorney General shall consider whether:
- Public notice of the vacancy has been given and that an affirmative effort has been made, in the case of each vacancy, to identify qualified candidates, including women and members of minority groups;
  - The selection process was fair and reasonable;

--2-

(c) The person or persons whose names are transmitted to the President are qualified to serve in the federal judiciary, based on the standards set forth in Section 1-2 of this Order.

1-105. In evaluating proposed nominees, the Attorney General shall also consider reports of Department of Justice investigations and all other relevant information concerning such nominees and their qualifications.

## 1-2. Standards for Evaluating Proposed Nominees.

- 1-201. The standards to be used in determining whether a person is qualified to serve as a district judge are whether that person:
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- (e) Possesses and has demonstrated commitment to equal justice under law;
- (f) Possesses and has demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and their processes;
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    - (b) Section 1-203 is amended to read as follows:
  - "1-203. In evaluating potential nominees, the Commission shall use the standards prescribed in Executive Order .".

## THE WHITE HOUSE WASHINGTON

11/2/78

## Frank Moore

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Rick Hutcheson

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	NO DEADLINE
	LAST DAY FOR ACTION -

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ADMIN CONFID
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SECRET
EYES ONLY

	VICE PRESIDENT
	EIZENSTAT
	JORDAN
	KRAFT
	LIPSHUTZ
	MOORE
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ADAMS
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	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
$\Box$	WISE

Electrostatic Copy Made for Preservation Purposes//

THE WHITE HOUSE

WAŞHINGTON

Frank

Send wire = n

Mr. President:

As you know, Bob Beckel of my staff is in Montana this week helping Max Baucus. He reports that Max is in serious trouble. The polls show the following:

> August 63 - 2558 - 30 September 51 ÷ 40 Last week 45 - 45 - 10Today

Last sunday, Senator Mansfield appeared on a pre-taped television program and said he endorsed Max. However, the program was not widely aired in Montana and the endorsement appeared luke warm. It did little good.

Senator Mansfield is now attending an Askew convention in Florida. Baucus desperately needs his help. At this stage, Senator Mansfield is the only person who can save Max.

I suggest that you call the Senator and ask him to do a short tape fully endorsing Max Baucus. My office will handle the details of the video or audio taping.

This is one vote we can have for six years.

Frank Moore F, M.

## THE WHITE HOUSE WASHINGTON

November 2, 1978

Tim Kraft Frank Moore

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

cc: The Vice President Hamilton Jordan

## Electrostatic Copy Made for Preservation Purposes

#### THE WHITE HOUSE

WASHINGTON October 27, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE

TIM KRAFT

RE:

1978 ELECTIONS

many Jim
possible place
frank I'll talk
yhan- J

The DNC will be reporting election results to us constantly all election evening. Several Administration officials, including The Vice President, The First Lady, Chip and Miss Lillian, will making congratulatory phone calls on election night to key winners. We recommend your making a series of phone calls the evening of November 7. The following are our recommendations for your review and comment.

### Senate

Alabama

Don Stewart

Montana

Max Baucus

Maine

Bill Hathaway

Iowa

Dick Clark

Kansas

Bill Roy

Massachusetts

Paul Tsongas

Michigan

Carl Levin

New Hampshire

Tom McIntyre

New Jersey

Bill Bradley

North Carolina

John Ingram

South Carolina

Pug Ravenal

Texas

Bob Krueger

Virginia

Andy Miller

West Virginia

Jennings Randolph

### THE WHITE HOUSE

#### WASHINGTON

October 27, 1978

### Governors

Alabama

Fob James

Connecticut

Ella Grasso

Florida

Bob Graham

Kansas

John Carlin

Maine

Joe Brennan

Marlyand

Harry Hughes

Michigan

Bill Fitzgerald

Nebraska

Jerry Whelan

Nevada

Bob Rose

New Hampshire

Hugh Gallen

New York

Hugh Carey

Ohio

Dick Celeste

Oregon

Bob Straub

Pennsylvania

Pete Flaherty

Tennessee

Jake Butcher

South Dakota

Roger McKellips

Wisconsin

Marty Schreiber

### House Members

California Mark Hannaford (33)

Colorado Tim Wirth (2)

Pat Schroeder (1)

Connecticut Bob Giaimo (3)

Bill Ratchford (5)

Florida Claude Pepper (14)

Georgia Virginia Shapard (6)

Idaho Stan Kress (1)

Iowa Mike Blouin (2)

Dick Myers (1)

Illinois Ab Mikva (10)

Terry Bruce (22)

Indiana John Brademas (3)

Kansas Martha Keys (2)

Don Allegrucci (5)

Massachsetts Jim Shannon (5)

Nick Mavroules(6)

Maine Mark Gartley(2)

Michigan Howard Wolpe (3)

Bob Carr(6)

Mississippi John Hampton Stennis(4)

New Jersey Helen Meyner (13)

New York Ned Pattison (29)

Jerry Ambro (3) Carter Burden (18)

North Carolina Steve Neal(5)

•

Oregon Jim Weaver (4)

Pennsylvania Joe Ammerman(23)

South Carolina Mex Heller (4)

Texas Bob Gammage (22)

Nelson Wolff(21)

Virginia

Herb Harris(8) Joe Fisher(10)

Wisconsin

Robert Cornell(8)

# Electrostatic Copy Made for Preservation Purposes

DRAFT OF PRESIDENTIAL LETTER TO BE SENT BY DNC TO WINNERS OF HOUSE, SENATE AND GUBERNATORIAL ELECTIONS

То
Congratulations on your victory in yesterday's election.
Your fellow citizens chose wisely, and I know you will
continue to merit their support.
As Democrats and as Americans we are challenged to
try to make our society as fair, as stable and as productive
as we can. I am pleased that you and I will be working
together toward these goals in the months and years ahead.
There is a great deal to accomplish.
I share your pride today, and send you my best wishes.
Sincerely,
Jimmy Carter
APPROVE

DRAFT OF PRESIDENTIAL LETTER TO BE SENT TO LOSERS OF HOUSE, SENATE AND GUBERNATORIAL ELECTIONS

ГО		

I am sorry that your hard work and dedication -- both during the campaign and before -- did not lead to a victory at the polls yesterday. Nevertheless, you can be proud of your contribution to the Democratic effort in 1978.

I commend your devotion to your party and to your country, and I hope we will have the opportunity to work together again in the near future.

Sincerely,

Jimmy Carter

APPROVE	 DISAPPROVE	



## THE WHITE HOUSE WASHINGTON

11/2/78

Mr. President:

FYI - Stu's office and OMB are
still working on -

5 bills - last day: Saturday, November 4

11 bills - last day: Monday, November 6

We will send these to you via Fran as soon as they're ready.

Rick

ok J

NY Kally 11-2-78 God Carey - Jen Mayor han. Mayor Keep ATT LIGHT Krupsak. Mario Cuomo Members of Congress Mike Blum. "Use a rally on Wallst" Normally not Dens territory - Today? Anti-infl speech - I prices not stocks = Carey - man of Courage Tells harsh truth = TOUGH CRIME MK BACIC LAWS
My jobs- Unemp & 35%

Some dev. DEFRIT Econ der. Cut taxon \$138 = (early) \$1800 NYC - Carter - Carey . Koch learn Calm - tough - competent - coof Conquess - 14 years Good services to poor, etc Hum Rts = N Ireland. Mid East Inflation - Hosp Cost Cont 104 GOTV - People US Spec Int ENERGY DEFICITS/ Tobs/inff/ &/Allieo/200 MCCESSION We mean business / not one-shot / Time to

Hint fally = Sen Don Riegh, Constilded Spher Bobby Crim, Mayor huther ford Carl Levin - 8,11 Titzgerald 60 - J 7K- 2/3 >> 1/3

Sigh of relief. Levin - Work, Fight in Hation Wante to be Mich's Senator. Will work

Fights bureaucracy oval office -Last week. Conn. Gor Grasso unemp 1/2
260 new businesses - 8.11 7.13 gerald
Public health Concerns. Farmers & others Agressive - a fighter. fair

Senate spending 3X GOTV - Likely voters only, Demolead 1/2 Meed Demo team = Ability govern son Dynamism. enthusiasm. Confidence. Comains Strength from people

Jobs = Mich & 31% = in Flation : deficit = # = Bal of trade = Civil Service . Taxes :

Defense - Hum Lt - leace

CHICAGO LALLY - 11-2-78 MIRVAMIRE BARALIS. ATEX SEIK: JACK TOWNY

2/3 > 2/3 = LIKELY DEM /2 = C'/RECINCH

JOBS - INFL - # - ALLIES - ECON GRWIN - ED

LIN SERY - DEFICIT

DEFENSE - HAM RIS - PEACE

INTEGRITY - CONSTITUENTS /Voluntiers

S COURAGE - WASH Magazine "Outstanding in C"

Energy - Solme - Pub WKS

ETHICS - Reform bill

INFLUENCE - TAX - SOC SEC - CIN SERV- CRIME

Control spending - Jobs - World Peace

Seith - But de ficit each year Tax cuts - Fiscal responsibility Door - to- door = Ma

Bakalis - Cur PROD TAXES : WELFARE + WORK

Must & Josephine Minows Mike & Heather Silandic (Minnie) Ald Huell